

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	CV 14-8935-RGK CR 10-00184-RGK	Date	July 25, 2016
Title	<i>ROMULO A. RECLUSADO v. UNITED STATES OF AMERICA</i>		

Present: The Honorable	R. GARY KLAUSNER, U.S. DISTRICT JUDGE		
Sharon L. Williams (not present)	Not Reported		N/A
Deputy Clerk	Court Reporter / Recorder		Tape No.
Attorneys Present for Plaintiffs:	Attorneys Present for Defendants:		
Not Present	Not Present		
Proceedings:	(IN CHAMBERS) ORDER re Plaintiff’s Motion to Vacate Judgment (DE 22) and Defendant’s Motion to Dismiss Plaintiff’s Motion to Vacate Judgment (DE 30)		

On November 19, 2014, Plaintiff filed a Motion to Vacate, Set Aside, or Correct Sentence Pursuant to 28 U.S.C. § 2255. On August 20, 2015, Judge Margaret Morrow heard the matter and issued a Order Denying Petitioner's Motion to Vacate.

On March 24, 2016, Plaintiff filed the current Motion to Vacate Judgment Pursuant to Rule 60(b) ("Rule 60(b) Motion"). On June 29, 2016, Defendant filed the current Motion to Dismiss Defendant's Motion to Vacate Judgment Pursuant to Rule 60(b).

Upon review of the parties' arguments, the Court finds that by way of his Rule 60(b) Motion, Plaintiff seeks to attack the proceedings in District Court and to have the merits determined in his favor. However, these very issues have already been resolved against him in the August 20, 2015 Order Denying Petitioner's Motion to Vacate. The claims clearly fall outside the bounds of Rule 60(b), and within the scope of AEDPA's limitations on successive habeas corpus petitions. Therefore, Plaintiff's Rule 60(b) Motion is improper, as it is merely a disguised successive habeas petition under 28 U.S.C. §2255.

Based on the foregoing, the Court **denies** Plaintiff's Motion to Vacate Judgment Pursuant to Rule 60(b), and **grants** Defendant's Motion to Dismiss Plaintiff's Motion to Vacate Judgment.

IT IS SO ORDERED.

Initials of Preparer

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